

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA**

State of Oklahoma, et al.,)	
)	
Plaintiffs,)	
vs.)	Case No. 05-CV-0329 GFK-SAJ
)	
Tyson Foods, Inc., et al.,)	
)	
Defendants.)	
)	

**THE CARGILL DEFENDANTS' SUPPLEMENTAL BRIEF IN SUPPORT
OF MOTION TO COMPEL PLAINTIFFS
TO DESIGNATE DEPONENTS UNDER RULE 30(B)(6)**

By leave of Court, the Cargill Defendants hereby submit limited additional briefing in support of their motion to compel Plaintiffs to designate deponents in response to five Rule 30(b)(6) deposition notices served on Plaintiffs in August 2007 (Dkt. No. 1270) and in opposition to Plaintiffs' cross-motion for protective order (Dkt. No. 1309).

Per the Court's Order, Plaintiffs filed supplemental responses to Cargill, Inc.'s interrogatory Nos. 9 and 13 on October 19, 2007. (Ex. 1.) In previous responses, Plaintiffs had responded to these interrogatories only with theories about their intended expert proof, without including either supporting references or any asserted evidence of a factual connection between their claims and the Cargill Defendants. (See Dkt. Nos. 1189; 1272-3 at 11-13, 17-20.) Plaintiffs' latest responses aver that they have no direct evidence of Cargill wrongdoing but make individualized allegations of Cargill-specific circumstantial evidence. (Ex. 1.) Specifically, Plaintiffs allege that one of the more-than-30 independent growers with whom the Cargill Defendants contracted had inconsistencies in required documentation, from which Plaintiffs apparently intend to draw unspecified inferences. (See id. at 2-4, 7-9.)

In resisting the Cargill Defendants' 30(b)(6) notices, Plaintiffs argue that the noticed depositions should be combined with other Defendants' as-yet unnoticed depositions. Plaintiffs try to emphasize an industry-wide view of their claims, asserting that the "noticed areas of inquiry address matters that are common to all of the Defendants" (Dkt. No. 1308 at 5), and that "the type of conduct that forms the basis of the State's claims is common among Defendants" (Dkt. No. 1309 ¶ 3).

The new interrogatory responses, however, demonstrate that Plaintiffs intend to offer Cargill-specific circumstantial evidence in an attempt to imply connections between their claimed damages and the Cargill Defendants' or their growers' conduct, a strategy that contradicts Plaintiffs' assertions of total commonality of liability evidence among Defendants. The responses bolster the Cargill Defendants' argument that they have a right to inquire into this Cargill-specific circumstantial evidence and the inferences Plaintiffs seek to draw from it. The noticed Rule 30(b)(6) depositions are a fair and measured means of accomplishing such Defendant-specific discovery.

Respectfully submitted,
Rhodes, Hieronymus, Jones, Tucker & Gable, PLLC

BY: /s/ JOHN H. TUCKER
JOHN H. TUCKER, OBA #9110
COLIN H. TUCKER, OBA #16325
THERESA NOBLE HILL, OBA #19119
100 W. Fifth Street, Suite 400 (74103-4287)
P.O. Box 21100
Tulsa, Oklahoma 74121-1100
Telephone: 918/582-1173
Facsimile: 918/592-3390
And

DELMAR R. EHRLICH
BRUCE JONES
KRISANN C. KLEIBACKER LEE
FAEGRE & BENSON LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, Minnesota 55402
Telephone: 612/766-7000
Facsimile: 612/766-1600
ATTORNEYS FOR CARGILL, INC. AND CARGILL
TURKEY PRODUCTION LLC

CERTIFICATE OF SERVICE

I certify that on the 2nd day of November, 2007, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

W. A. Drew Edmondson, Attorney General
Kelly Hunter Burch, Assistant Attorney General
J. Trevor Hammons, Assistant Attorney General
Robert D. Singletary
Daniel Lennington, Assistant Attorney General

drew_edmondson@oag.state.ok.us
kelly_burch@oag.state.ok.us
trevor_hammons@oag.state.ok.us
Robert_singletary@oag.state.ok.us
Daniel.lennington@oag.ok.gov

Douglas Allen Wilson
Melvin David Riggs
Richard T. Garren
Sharon K. Weaver
Riggs Abney Neal Turpen Orbison & Lewis

doug_wilson@riggsabney.com
driggs@riggsabney.com
rgarren@riggsabney.com
sweaver@riggsabney.com

Robert Allen Nance
Dorothy Sharon Gentry
Riggs Abney

rnance@riggsabney.com
sgentry@riggsabney.com

J. Randall Miller
David P. Page
Louis W. Bullock
Miller Keffer & Bullock

rmiller@mkblaw.net
dpage@mkblaw.net
lbullock@mkblaw.net

William H. Narwold
Elizabeth C. Ward
Frederick C. Baker
Lee M. Heath
Motley Rice

bnarwold@motleyrice.com
lward@motleyrice.com
fbaker@motleyrice.com
lheath@motleyrice.com

COUNSEL FOR PLAINTIFFS

Stephen L. Jantzen
Patrick M. Ryan
Paula M. Buchwald
Ryan, Whaley & Coldiron, P.C.

sjantzen@ryanwhaley.com
pryan@ryanwhaley.com
pbuchwald@ryanwhaley.com

Mark D. Hopson
Jay Thomas Jorgensen
Timothy K. Webster
Sidley Austin LLP

mhopson@sidley.com
jjorgensen@sidley.com
twebster@sidley.com

Robert W. George
Michael R. Bond
Kutack Rock LLP

robert.george@kutackrock.com
michael.bond@kutackrock.com

**COUNSEL FOR TYSON FOODS, INC., TYSON POULTRY, INC., TYSON CHICKEN, INC.;
AND COBB-VANTRESS, INC.**

R. Thomas Lay
Kerr, Irvine, Rhodes & Ables

rtl@kiralaw.com

Jennifer S. Griffin
Lathrop & Gage, L.C.

jgriffin@lathropgage.com

COUNSEL FOR WILLOW BROOK FOODS, INC.

Robert P. Redemann
Lawrence W. Zeringue
David C. Senger
Perrine, McGivern, Redemann, Reid, Berry & Taylor, PLLC

rredemann@pmrlaw.net
lzingue@pmrlaw.net
dsenger@pmrlaw.net

Robert E. Sanders
E. Stephen Williams
Young Williams P.A.

rsanders@youngwilliams.com
steve.williams@youngwilliams.com

COUNSEL FOR CAL-MAINE FOODS, INC. AND CAL-MAINE FARMS, INC.

George W. Owens
Randall E. Rose
The Owens Law Firm, P.C.

gwo@owenslawfirmmpc.com
rer@owenslawfirmmpc.com

James M. Graves
Gary V. Weeks
Bassett Law Firm

jgraves@bassettlawfirm.com

COUNSEL FOR GEORGE'S INC. AND GEORGE'S FARMS, INC.

John R. Elrod
Vicki Bronson
Bruce W. Freeman
Conner & Winters, LLLP

jelrod@cwlaw.com
vbronson@cwlaw.com
bfreeman@cwlaw.com

COUNSEL FOR SIMMONS FOODS, INC.

A. Scott McDaniel
Nicole M. Longwell
Philip D. Hixon
Joyce, Paul & McDaniel, PC

smcdaniel@mhla-law.com
nlongwell@mhla-law.com
phixon@mhla-law.com

Sherry P. Bartley
Mitchell Williams Selig Gates & Woodyard
COUNSEL FOR PETERSON FARMS, INC.

sbartley@mws gw.com

Michael D. Graves
Dale Kenyon Williams, Jr.

mgraves@hallestill.com
kwilliams@hallestill.com

COUNSEL FOR CERTAIN POULTRY GROWERS

I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

C. Miles Tolbert
Secretary of the Environment
State of Oklahoma
3800 North Classen
Oklahoma City, OK 73118
COUNSEL FOR PLAINTIFFS

Thomas C. Green
Sidley Austin Brown & Wood LLP
1501 K Street NW
Washington, DC 20005
**COUNSEL FOR TYSON FOODS, INC., TYSON
POULTRY, INC., TYSON CHICKEN, INC.; AND
COBB-VANTRESS, INC.**

s/ John H. Tucker